

BEFORE THE
POSTAL RATE COMMISSION

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POSTAL RATE COMMISSION
OFFICE OF THE SECRETARY

COMPLAINT ON POST E.C.S.

DOCKET NO. C99-1

MOTION OF UNITED PARCEL SERVICE TO
COMPEL UNITED STATES POSTAL SERVICE
TO ANSWER INTERROGATORIES
UPS/USPS-46(a) AND UPS/USPS-47
THROUGH UPS/USPS-49
(August 9, 1999)

Pursuant to Section 25(d) of the Commission's Rules of Practice, United Parcel Service hereby moves that the United States Postal Service be ordered to respond in full to interrogatories UPS/USPS-46(a) and UPS/USPS-47 through UPS/USPS-49 within seven days of the Presiding Officer's ruling, on the grounds set forth herein.¹

ARGUMENT

Interrogatories 46(a) and 49. These questions ask the Postal Service to give its definition of an "international" as opposed to a "domestic" PostECS transaction, and to state whether it imposes different charges for "international" as opposed to "domestic" transactions. The Postal Service objects on the ground of relevance, based solely on its position that not all jurisdictional questions are at issue in this phase of the case. Objection at 1. UPS agrees that if its Motion for Clarification or, in the Alternative, for

1. Copies of these interrogatories are attached hereto as Exhibit "A."

Reconsideration and Modification of P.O. Ruling No. C99-1/3 Concerning the Scope of the First Phase of This Proceeding (July 15, 1999) is denied, then these questions are not relevant to this phase of the case.² On the other hand, if all jurisdictional issues are embraced in this phase, then the requested information is unquestionably relevant and should be provided.

Interrogatory 47. This question asks for the location of the server where messages reside for pickup by the addressee. The Postal Service objects on the ground of relevance. Objection at 2-4.

UPS incorporates the discussion above with respect to interrogatories 46(a) and 49 to the extent the Postal Service's objection rests on the scope of this phase of the case. However, the Postal Service also asserts that the interrogatory is irrelevant because it is "based on the mistaken assumption" that messages addressed to addressees with email addresses containing a foreign top level domain are not domestic. Objection at 3. The Postal Service is wrong.

Depending on exactly how the Postal Service routes a message addressed to an addressee with an email address containing a foreign top level domain (e.g., whether such a message always stays in the United States for pickup by the addressee, or is conveyed to a server in another country for pickup by the addressee), the fact that the message is sent to an address containing a foreign top level domain or not may be among the most relevant information on the question of a PostECS transaction's domestic or international nature. As the Postal Service notes, the interrogatory seeks to

2. If that is so, however, UPS reserves the right to ask for this information at the appropriate time.

determine the location of the server from which the addressee picks up a message. Objection at 1-2. If all messages, whether to an address containing a foreign top level domain or not, reside on a server located in the United States, then all such transactions are unquestionably wholly domestic. That is because PostECS transactions are like post office box deliveries; if the addressee retrieves the message from a server in the United States, that is like coming to a post office box in the United States to retrieve the addressee's mail. See Exhibit B hereto. There is nothing "international" about the transaction. On the other hand, if messages sent to a foreign top level domain *must* be routed to a server in the custody of a foreign postal administration, then those transactions may arguably be considered "international."

The point is that unless more is known about how PostECS operates, one cannot even begin to determine the validity of the Postal Service's defense that PostECS is a wholly international service. This interrogatory clearly seeks information that is "reasonably calculated to lead to the discovery of admissible evidence," 39 C.F.R. § 3001.25(a), and the Postal Service's relevance objection should therefore be overruled.

Interrogatory 47(f). The Postal Service also objects to this interrogatory on the ground of undue burden. Objection at 5-6. The question asks whether the Postal Service is able to separate messages addressed to an address with a foreign top level domain from messages that are addressed elsewhere. There is certainly no undue burden in providing a yes or no answer to that question.

In fact, given the Postal Service's undue burden objection, we assume this separation can be made. The Postal Service suggests that it would take 21 person days to prepare a response to this interrogatory. UPS finds it difficult to believe that it is

so time-consuming for the Postal Service to locate addressee e-mail addresses in the case of a service which offers as one of its main features an “Electronic Postmark” that, among other things, is said to provide a time and date stamp that assertedly serves as “validation of the time and date that an electronic mail document was received by the Postal Service,” and to “validate the existence of a document.” 61 Fed. Reg. 42219 (August 14, 1996). But even assuming the validity of that estimate, the effort involved is not a significant time, in light of the importance of the jurisdictional issue at stake here, which deals with the scope of the Commission’s authority over the Postal Service’s electronic service offerings.

Interrogatory 48. UPS here asks whether PostECS shares common inputs with Post Office Online or Mailing Online, an admittedly “postal” service. The Postal Service asserts lack of relevance and commercial sensitivity “(in part).” Objection at 6.


The Postal Service’s statement that “the sharing of internal resources . . . does not elucidate the question of whether PostE.C.S. is a ‘postal’ service,” Objection at 6, is not correct. If common inputs are used to provide two services, there is at least some degree of similarity between the services. That similarity suggests that they may be of the same basic nature. Either alone or when taken together with other similarities, the use of common inputs may very well demonstrate that two services have the same basic “postal” nature. Indeed, commonality of inputs can indicate functional equivalence. In short, the use of common inputs says a great deal about the relationship between two products.

The Postal Service’s commercial sensitivity objection is frivolous. The identification of what inputs are shared by two services would not “give competitors

indications of the capacity of the Postal Service's equipment or resources used" in providing one of the services. Objection at 6.

WHEREFORE, United Parcel Service respectfully requests that the Presiding Officer order the United States Postal Service to answer in full interrogatories UPS/USPS-46(a) and UPS/USPS-47 through UPS/USPS-49.

Respectfully submitted,



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BEFORE THE
POSTAL RATE COMMISSION

COMPLAINT ON POST E.C.S.

DOCKET NO. C99-1

SIXTH SET OF INTERROGATORIES OF UNITED
PARCEL SERVICE TO UNITED STATES POSTAL SERVICE
(UPS/USPS-46 THROUGH UPS/USPS-49)
(July 15, 1999)

Pursuant to Section 25 of the Commission's Rules of Practice, United Parcel Service hereby serves the following interrogatories on the United States Postal Service:

UPS/USPS-46. (a) Describe what makes a PostECS transaction an "international," as opposed to a "domestic," transaction, and state all bases for distinguishing a domestic PostECS transaction from an international one.

(b) May PostECS be used to send a message or a document from a sender located in the United States to a recipient located in the United States?

(c) Have there been any PostECS transactions in which a message or a document was sent from a sender located in the United States to a recipient located in the United States?

UPS/USPS-47. For purposes of this question, the terms "Postal Service server" and "Postal Service's server" refer to a server owned or operated by or on behalf of the Postal Service, and the term "foreign top level domain" means a top level domain other than .com, .gov, .org, .net, .edu, .us, and .mil.

(a) Please confirm that when a PostECS user licensed by the Postal Service who has an e-mail address that does not contain a foreign top level domain name sends a message or a document to a recipient with an e-mail address that does not contain a foreign top level domain name, the Postal Service server from which the recipient retrieves the message or document will be located in the United States. If you do not confirm, please explain why.

(b) Please confirm that whenever a message or document is sent by a PostECS user licensed by the Postal Service to an e-mail address that does not contain a foreign top level domain name, the destination Postal Service server from which the recipient retrieves the message will be located in the United States. If you do not confirm, please explain why.

(c) Please confirm that whenever a message or document is sent by a PostECS user licensed by the Postal Service, the Postal Service server to which the sender sends the document is located in the United States. If you do not confirm, please explain why.

(d) Please confirm that whenever a message or document is sent by a PostECS user licensed by the Postal Service who has an e-mail address that does not contain a foreign top level domain name, the message or document does not go to a server owned or operated by or on behalf of a foreign postal administration but rather goes to the Postal Service's server. If you do not confirm, please explain why.

(e) Please confirm that whenever a message or document is sent by a PostECS user licensed by the Postal Service, the message or document does not go to

a server owned or operated by or on behalf of a foreign postal administration but rather goes to the Postal Service's server.

(f) Is the Postal Service able, electronically or otherwise, to identify PostECS messages and documents addressed from a sender with an e-mail address that does not contain a foreign top level domain name to a recipient whose e-mail address does not contain a foreign top level domain name? If so, state the number of such PostECS transactions and the proportion of all PostECS transactions which they represent.

UPS/USPS-48. (a) Are any of the hardware, software, equipment, or other resources used to provide PostECS also used in connection with Mailing Online? If so, identify all such shared common inputs.

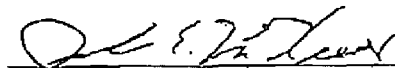
(b) Are any of the hardware, software, equipment, or other resources used to provide PostECS also used in connection with Post Office Online? If so, identify all such shared common inputs.

UPS/USPS-49. (a) Does the Postal Service charge or quote different prices for international PostECS transactions than for otherwise identical domestic PostECS transactions? If so, state how the Postal Service determines whether the international or the domestic price or quote applies.

(b) Has the Postal Service ever charged or quoted different prices for international PostECS transactions than for otherwise identical domestic PostECS

transactions? If so, state how the Postal Service determined whether the international or the domestic price or quote applied.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on this date I have caused to be served the foregoing document on all parties to this proceeding by first class mail, postage prepaid, in accordance with Section 12 of the Rules of Practice.

Nicole P. Kangas
Nicole P. Kangas

Dated: July 15, 1999
Philadelphia, PA

Exhibit B

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Wednesday 13 January 1999

- SITE SEEING -

Snail mail gets new shell

Andy Riga

The Gazette

A laptop sits in front of the woman, but she's not typing. Instead, she's looking about wistfully. It's hard to tell what she's thinking - until a small cartoon stamp floats in, followed by the ad's tag line: Nothing says it better than a letter.

That's an old-fashioned letter they're talking about. You know, the kind you write out longhand using a pen.

Remember? Then you put it in an envelope and throw it in a mailbox.

The commercial, which started appearing in Montreal movie theatres last weekend, is the first salvo in Canada Post's new we're-better-than-E-mail marketing campaign.

Behind the scenes, however, the crown corporation appears to realize that the days of red mailboxes on street corners are numbered. After years of dealing with competition from more convenient fax machines, more reliable couriers, cheaper long-distance services, and instantaneous E-mail, Canada Post is fighting back.

It's preparing the groundwork for an electronic counter-attack that will hit the Internet this summer. One new service will allow companies to securely exchange files online. Another will let consumers receive and pay bills through an "electronic post office."

But can our oft-maligned postal service survive in high-tech - the most competitive, fast-paced industry in the world? After all, everyone has Canada Post horror stories. In my case, they insist on sending most of my mail to an old address - even though I paid for it to be redirected when I moved three months ago, and the new address is only five doors down the same street.

If it can't get a letter from Montreal to Toronto in a few days, can it really compete against the likes of United Parcel Service, Microsoft Corp. and Citibank, all of which are pouring big bucks into similar ventures?

Bill Robertson thinks so. He's helping direct electronic-commerce efforts at Canada Post, which delivered more than 9 billion traditional letter and parcels last year and pulled in \$5.1 billion in revenue.

Robertson points to market research that shows consumers and small businesses trust the post office

DAVE SIDAWAY, GAZETTE /
The Electronic Post Office is slated to go online this summer, and it might mark the beginning of the end for Canada Post's familiar red mailboxes.

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the most when it comes to providing electronic services, beating rivals like phone companies and banks. Big business isn't so sure, but the research indicates it would come around if Canada Post teamed up with a technology company.

Canada Post already has an Internet presence: 5,000 visitors a day use its site to look up postal codes, order stamps and track parcels. Some day soon, you'll probably also be able to download actual postage over the Web.

For now, the post office's big ambitions are focused on two services: the Electronic Post Office and the Electronic Courier Service.

Canada Post wants to court the growing number of people who use personal computers to monitor their bank balances, transfer funds and pay bills (the paper kind you get in the mail), any time, day or night.

About 6.3 million Canadians access the Internet on a weekly basis, according to research published last month by ComQUEST. It estimated more than 26 per cent of the adult population is online. Many of them are expected to move to electronic banking over the next two years. One indication of the looming demand is the growing popularity of personal-finance and tax-preparation software.

~~Even before the trend toward PC banking, Canada Post was being hurt by new delivery methods. Direct deposit, for example, is big. And the trend intensified during the 1997 postal strike.~~

During that two-week period, more than one million people switched to direct-deposit for federal government cheques, depriving Canada Post of \$5 million annually.

Technology also got in Canada Post's way, as consumers started paying bills at automatic bank tellers, instead of filling out bill stubs, writing cheques, licking stamps and finding mailboxes.

Enter Canada Post's electronic post office, which will begin trials at the end of January. It's a joint project with Cebra, a Bank of Montreal subsidiary.

Consumers will sign up for a free "secure personal post-office box" on the Web to which companies will send electronic bills and ads. Petro-Canada, Bank of Montreal's MasterCard and Sears Canada are among the first to sign up. Robertson said Revenue Canada might eventually join, allowing consumers to fill out and send income-tax forms electronically.

When a consumer gets a bill or statement in his post-office box, it will feature a digital postmark to guarantee it hasn't been opened or tampered with. The user can then view and pay bills electronically through Canada Post's Web site, thanks to a secure connection to the payer's bank.

Consumers will like the convenience, Robertson said. And the only fees they'll pay are those set by the bank for transactions, which they'd presumably be charged no matter how they pay their bills.

Canada Post will make money by charging the bill-senders. The billers will save because they won't bother with paper, printing and postage.

A company typically spends about 50 cents to send out a one-page bill, Robertson said. Five- or six-page bills set them back about 80 cents. Canada Post says they'll save money, though it can't say how much yet. But the bill senders will see other benefits, Robertson said: people will likely pay bills earlier if the process is convenient, and they'll be less of a strain on customer-service call centres

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because most of the information they need is on the electronic bill - or on the company's easily accessible Web site.

There's a lot of potential there: Canadians write millions of cheques every year, many of them for recurring expenses such as phone service, electricity, credit cards and cable TV. And they're clamouring for more choice as to how, where, when and in what format they receive those bills.

Several U.S.-based consortiums working on projects similar to Canada Post's.

The one that has received the most attention is the one with Bill Gates behind it. It's called TransPoint, and brings together Gates's Microsoft, First Data and Citibank. Under its set-up, consumers access TransPoint's E-bill service through their banks' Web site. TransPoint is promising to save billers serious money when it launches its service this year.

In the U.S., billers spend between 70 cents and \$1.50 on a conventional bill, according to market researcher Killen & Associates. Electronic-bill presentment can reduce that by as much as two-thirds. Killen predicts that by 2000, 12 per cent of all bills around the world (about 8 billion bills) will be sent electronically, with the most keen digital billers being phone companies and other utilities, along with insurers and big retailers. But one of TransPoint's key claims clashes with Canada Post's position. TransPoint says that, in the U.S. at least, consumers would much rather pay bills at their banks' Web site than the post office.

One of the problems with E-mail is that it's not particularly secure. And businesses that initially embraced it as their communications tool of choice are realizing that their valuable information may be intercepted by crafty competitors and computer hackers.

"E-mail is a very convenient tool for casual communications, but it's not a robust tool for business communications," Robertson noted.

That's why several companies have created a new line of business - providing secure transmission of documents via the Internet. The services typically offer document encryption, positive identification of sender and receiver and end-to-end tracking.

Under Canada Post's Electronic Courier service, the file - it can be a document, a spreadsheet, a graphic, an audio clip or even a video - is sent to a secure server, which sends the recipient an E-mail notification. That person surfs to Canada Post, where a "virtual pipeline between our server and your computer is established," Robertson said. "You have a solid connection from us to your PC, so it's not out in the open on the Net."

Another plus: unlike faxes, you can edit such a file collaboratively, sending it back and forth. That's convenient when you're drafting contracts, for example. Electronic delivery services also simplify the mind-boggling world of E-mail attachments.

Poste CS, which is being jointly developed with the United States Postal Service and France's La Poste, is being tested by about 200 businesses. Most of those testers are lawyer, accounting and government offices that exchange highly confidential documents. They have found the service has helped cut courier and long-distance fax charges by 70 per cent, Canada Post says.

The fee? It costs \$3.50 for a two-megabyte file, the equivalent of a document of several hundred pages.

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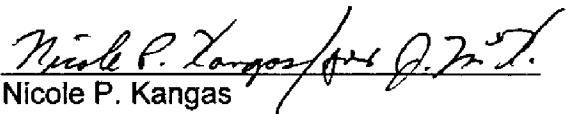
The main competition, for now, is UPS, which launched its electronic Document Exchange service in Canada last June. Charges range from \$1.75 U.S. to \$12 U.S. for files under 1.4 megabytes sent from North America.

By the time Poste CS is launched, UPS will have had a one-year head start. UPS is a mighty rival: the world's largest courier company, it had sales of \$22.5 billion U.S. last year.

But from the sounds of it, Canada Post executives aren't kidding themselves about their efforts to stay relevant in the digital era. "There is clear recognition that we cannot and should not try to be Microsoft," recently-retired chief executive Georges Clermont told a postal convention in September. "Our opportunity in the area of electronic communication lies lies in carving out a niche that builds on our core business and our strengths."

CERTIFICATE OF SERVICE

I hereby certify that on this date I have caused to be served the foregoing document on all parties to this proceeding by first class mail, postage prepaid, in accordance with Section 12 of the Rules of Practice.


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Dated: August 9, 1999
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